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SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			BASHORE, WILLIAM L	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/488,971

Filing Date: January 21, 2000

Appellant(s): BAER ET AL.

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Ruthleen E. Uy  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed October 17, 2005 appealing from the Office action mailed May 18, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

ezWriter 2.0 for Windows, August 5, 1998 by Lance Vaughn, Atlanta, IN, downloaded from <<http://www.winsite.com>> on 6/22/2003, application screenshots pages 1-15.

6,529,889	BROMBERG ET AL.	3-2003
6,006,242	POOLE ET AL.	12-1999

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-27, 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over ezWriter 2.0 for Windows (hereinafter ezWriter), August 5, 1998 by Lance Vaughn, Atlanta, IN, downloaded from <<http://www.winsite.com>> on 6/22/2003, application screenshots pages 1-15, in view of Bromberg et al. (hereinafter Bromberg), U.S. Patent No. 6,529,889 issued March 2003.**

**In regard to independent claim 1, ezWriter teaches a method of reordering content in a plurality of content entities (.rtf files), stored in the ezWriter directory (a data repository, i.e. Windows Explorer accessing ezWriter's file directory of a hard drive), each entity identified by its filename and .rtf extension. Each .rtf file reflects a different section of a work (ezWriter page 3, 7, 15). The limitation of said rtf files stored as a content object would have been obvious to one of ordinary skill in the art at the**

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time of the invention, in view of ezWriter, because of ezWriter's teaching of said rtf files connected via an ezWriter file (.ezw). An ezWriter file is an index of (or a set of pointers to) the saved rtf files, said ezWriter file showing the hierarchical connections to the set of files (ezWriter page 7). Since both the .ezw file ("Welcome to ezWriter.ezw") along with all referenced rtf files are stored in the same directory, this provides a reasonable suggestion to the skilled artisan that this collection of files with index can be interpreted as a content object, since all associated files are grouped and associated accordingly (ezWriter page 15) (compare with claim 1 "*A method for reordering content in a content object stored as a plurality of hierarchically related content entities in a data repository, each content entity having an identifier, comprising the steps of:*"). This provides ezWriter the benefit of increased organization by combining all sections of an author's story in a single content object.

EzWriter teaches that an ezw files defines the hierarchical organization of a set of related rtf files (a plurality of content entities) (ezWriter page 8). A user can change the displayed hierarchical structure by selecting [Outline, Edit], editing the ezw file, saving said file, then refreshing the Outline (ezWriter pages 8-11). Pages 9-11 illustrate the redefining of the rtf files, subsequent to relocation of one of the files (compare with claim 1 "*defining the content object with a list of content entity identifiers such that moving a content entity identifier to a new location within the list redefines the order of the object's content entities.*", and "*A method for reordering content...*").

EzWriter does not specifically teach parent and child containers adhering to inheritance, with said containers containing content entities. However, Bromberg teaches Acappella Designer, encompassing a topic hierarchy, and a display for displaying questions, etc. related to each topic (Bromberg Abstract, column 5 lines 27-35, column 16 lines 13-18). The designer uses a process called "rollup" which the premise that each container (parent container) in the hierarchy contains information on the activity of the containers that are subordinate to it (child containers), said containers containing content (i.e. questions, etc.). Bromberg also teaches a hierarchical table (Bromberg column 18 lines 40-65, see also column 17

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lines 27-40, column 19 lines 10-20 and 22-34) (compare with claim 1 “*wherein the hierarchically related content entities....can contain content entities*”). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bromberg to EzWriter, providing EzWriter the benefit of hierarchical containers within its set of files making set wide edits, etc. possible.

**In regard to dependent claim 2,** ezWriter teaches content entities in the form of .rtf files. The outline in ezWriter’s left pane reflect the hierarchical structure of the set of said .rtf files. A user specifies said hierarchical structure (user specification) by editing the corresponding .ezw file in Notepad (ezWriter pages 9-11).

**In regard to dependent claim 3,** ezWriter teaches a user interface in communication with files on a storage (typically a hard drive). EzWriter allows editing (moving) of rtf files via the use of Notepad within ezWriter (ezWriter pages 8-11). EzWriter also teaches a planned improvement of allowing modification of the outline without having to edit the source file (ezWriter page 12, bullet 5).

**In regard to independent claim 4,** claim 4 incorporates substantially similar subject matter as claimed in claim 1, and in further view of the following, is rejected along the same rationale.

EzWriter teaches a hierarchically structured outline window display of related .rtf files (ezWriter page 4; compare with claim 4 “*hierarchically structured*”).

EzWriter does not specifically teach parent and child containers adhering to inheritance, with said containers containing content entities. However, Bromberg teaches Acappella Designer, encompassing a topic hierarchy, and a display for displaying questions, etc. related to each topic (Bromberg Abstract, column 5 lines 27-35, column 16 lines 13-18). The designer uses a process called “rollup” which the premise that each container (parent container) in the hierarchy contains information on the activity of the

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containers that are subordinate to it (child containers), said containers containing content (i.e. questions, etc.). Bromberg also teaches a hierarchical table (Bromberg column 18 lines 40-65, see also column 17 lines 27-40, column 19 lines 10-20 and 22-34) (compare with claim 4 “*wherein the hierarchically related content entities....can contain content entities*”). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bromberg to EzWriter, providing EzWriter the benefit of hierarchical containers within its set of files making set wide edits, etc. possible.

**In regard to dependent claim 5,** ezWriter teaches content entities in the form of .rtf files. The outline in ezWriter’s left pane reflect the hierarchical structure of the set of said .rtf files. A user specifies said hierarchical structure (user specification) by editing the corresponding .ezw file in Notepad (ezWriter pages 9-11).

**In regard to dependent claim 6,** ezWriter teaches a user interface in communication with files on a storage (typically a hard drive). EzWriter allows editing (moving) of rtf files via the use of Notepad within ezWriter (ezWriter pages 8-11). EzWriter also teaches a planned improvement of allowing modification of the outline without having to edit the source file (ezWriter page 12, bullet 5).

**In regard to dependent claim 7,** ezWriter teaches that its invention is to assist with the organization of outlines, concepts, notes, and chapters. The author (a Science-Fiction writer), used said invention to maintain files associated with a Science-Fiction Trilogy (ezWriter page 3).

**In regard to dependent claim 22,** EzWriter does not specifically teach calculating costs. However, Bromberg teaches “rollup” which calculates a cost of a question (true/false, etc.), and propagates said cost up the tree, depending upon the costs of the elements within the child containers

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(Bromberg column 18 lines 40-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bromberg to EzWriter, providing EzWriter the benefit of analyzing costs of various questions answered in a prepared questionnaire, or textbook, etc. created by EzWriter.

**In regard to dependent claim 23,** EzWriter does not specifically teach calculating costs.

However, Bromberg teaches “rollup” which calculates a cost of a question (true/false, etc.), and propagates said cost up the tree, depending upon the costs of the elements within the child containers (Bromberg column 18 lines 40-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bromberg to EzWriter, providing EzWriter the benefit of analyzing costs of various questions answered in a prepared questionnaire, or textbook, etc. created by EzWriter.

**In regard to claims 8-10, 24,** claims 8-10, 24 reflect the program storage device comprising computer executable instructions used for performing the method steps as claimed in claims 1-3, 22, respectively, and are rejected along the same rationale.

**In regard to claims 11-14, 25,** claims 11-14, 25 incorporate substantially similar subject matter as claimed in claims 4-7, 23, respectively, and are rejected along the same rationale.

**In regard to claims 15-17, 26,** claims 15-17, 26 reflect the system comprising computer readable instructions used for performing the method steps as claimed in claims 1-3, 22, respectively, and are rejected along the same rationale.

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**In regard to claims 18-21, 27,** claims 18-21, 27 reflect the system comprising computer readable instructions used for performing the method steps as claimed in claims 4-7, 23, respectively, and are rejected along the same rationale.

**In regard to independent claim 40,** claim 40 incorporates substantially similar subject matter as claimed in claim 1, and in further view of the following, is rejected along the same rationale.

EzWriter teaches an index file (.ezw) which keeps a list of each .rtf file. (ezWriter page 10). The user movement of one file to another location in said index file defines the hierarchical file position relative to all other files. Hierarchical presentation of ezWriter (combined with Bromberg's containers etc.) teaches that the destination of a moved .rtf file results in said .rtf file becoming a child of its parent file (i.e. the hierarchical listing can be broken down into a number of related sub-lists, or branches) (compare with claim 40 "*wherein moving a content entity identifier in the first list to a new location comprises: selecting the content entity identifier from the first list of content entity identifiers to be moved; and specifying a location from a second list of content entity identifiers where the content entity identifier from the first list of content entity identifiers is to be moved; wherein the specified location comprises at least one of a current content entity identifier or a newly created content entity identifier.*").

**In regard to dependent claim 41,** ezWriter teaches selection of a destination content entity (a sub-list or branch, as explained in the rejection of claim 40). The index file used for user manipulation (ezWriter Figure 10) is obtained via Outline, Edit option of a drop down menu (ezWriter page 8, bottom section).

**In regard to independent claim 42,** claim 42 incorporates substantially similar subject matter as claimed in claim 40, and in further view of the following, is rejected along the same rationale.

EzWriter does not specifically teach a database. However, Bromberg teaches association with databases (Bromberg Figure 3, column 19 lines 44-46; compare with claim 42 “*a computer database*”). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bromberg to ezWriter, providing ezWriter the benefit of database to facilitate a more orderly and efficient arrangement of stored data.

**In regard to dependent claim 43,** claim 43 incorporates substantially similar subject matter as claimed in claim 41, and is rejected along the same rationale.

**Claims 28-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over ezWriter and Bromberg, as applied to claims 1, 4, 8, 11, 15, 18, above, and further in view of Poole et al. (hereinafter Poole), U.S. Patent No. 6,006,242 issued December 1999 (cited in Applicant’s IDS).**

**In regard to dependent claim 28,** EzWriter does not specifically teach an identifier with a format as claimed in claim 28. However, Poole teaches dynamically creating a document comprising a Parties business object, said object containing a number of sub-objects and items: “Parties.Items(1).Type” (Poole column 36 lines 18-23, 39-40, 43), can be interpreted as parent container/child container/content entity, exhibiting inheritance within a hierarchical system. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Poole to EzWriter, providing EzWriter the benefit of a struct oriented implementation for more efficient programming (i.e. C, C++, Java, etc.).

**In regard to dependent claim 29,** ezWriter teaches that its invention is to assist with the organization 4 of outlines, concepts, notes, and chapters. Since EzWriter teaches that the author used said

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invention to maintain files associated with a Science-Fiction Trilogy (ezWriter page 3), said book typically containing chapters and sections, therefore the typical parts of said book can be fairly interpreted as fitting into the containers as taught by ezWriter, Bromberg, and Poole.

**In regard to dependent claim 30,** EzWriter does not specifically teach an identifier with a format as claimed in claim 28. However, Poole teaches dynamically creating a document comprising a Parties business object, said object containing a number of sub-objects and items: “Parties.Items(1).Type” (Poole column 36 lines 18-23, 39-40, 43), can be interpreted as parent container/child container/content entity, exhibiting inheritance within a hierarchical system. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Poole to EzWriter, providing EzWriter the benefit of a struct oriented implementation for more efficient programming (i.e. C, C++, Java, etc.).

**In regard to dependent claim 31,** ezWriter teaches that its invention is to assist with the organization of outlines, concepts, notes, and chapters. Since EzWriter teaches that the author used said invention to maintain files associated with a Science-Fiction Trilogy (ezWriter page 3), said book typically containing chapters and sections, therefore the typical parts of said book can be fairly interpreted as fitting into the containers as taught by ezWriter, Bromberg, and Poole.

**In regard to dependent claims 32, 33,** claims 32, 33 reflect the program storage device comprising computer executable instructions used for performing the method steps as claimed in claims 28, 29, respectively, and are rejected along the same rationale.

**In regard to dependent claims 34, 35,** claims 34, 35 incorporate substantially similar subject matter as claimed in claims 30, 31, respectively, and are rejected along the same rationale.

**In regard to dependent claims 36, 37,** claims 36, 37 reflect the system comprising computer readable instructions used for performing the method steps as claimed in claims 28, 29, respectively, and are rejected along the same rationale.

**In regard to dependent claims 38, 39,** claims 38, 39 reflect the system comprising computer readable instructions used for performing the method steps as claimed in claims 30, 31, respectively, and are rejected along the same rationale.

#### **(10) Response to Argument**

Pages 13-14 of Appellant's Appeal Brief (hereinafter the Brief) are directed to Appellant's analysis of instant claim 1, ezWriter, and the Bromberg reference. Beginning on page 14 of the Brief, Appellant argues the following issues, which are accordingly addressed below.

- a.     “*...the topics (or ‘content entities’) of Bromberg are different than the ezWriter .rtf files which are asserted to be the claimed ‘content entities’. Consequently, it is respectfully submitted that as would be apparent to one of ordinary skill in the art, it would not have been obvious at the time of the invention to modify the ezWriter to use the parent and child container types instead of the .rtf files disclosed in ezWriter.*” (page 14, at bottom, of the Brief).

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The examiner respectfully disagrees. As a preliminary matter, the rejection of claim 1 does not state that anything within ezWriter is “replaced”. Instead, the teaching of Bromberg’s containers (along with its roll up feature) are applied to ezWriter’s hierarchical display. In addition, Appellant argues that the two references are “different”, yet Appellant does not appear to explain (at least at this point) in any detail why the two references are different.

EzWriter is a tool for authors to differentiate portions of a written work. The portions are titled and shown in a hierarchical tree, as evidence by pages 8-9 of the ezWriter reference. EzWriter hierarchically maps various related text files of an authored literary work, with each section of work encapsulated within a separate rtf file. Each file can be interpreted as a separate content object, which are hierarchically organized/re-organized by a user accordingly. Page 8 of ezWriter also recites in terms of “parent” and “child” entries, etc. (at least suggesting a form of hierarchical inheritance). Hierarchical inheritance is further bolstered by selective use of periods to denote placement of contents within said hierarchy. It is respectfully submitted that ezWriter teaches the following:

- Various content objects (i.e. sections of a literary work, etc.) with each object stored as an .rtf file, the hierarchical relationships between each said object displayed accordingly via a displayed hierarchical tree.
- Each content entity having an identifier (i.e. the filename of a .rtf file), with user manipulation of the tree file (ezWriter’s .ezw file) resulting in hierarchical rearrangement (redefinition of the order) of the content objects accordingly.

At this point it is worth mentioning that the examiner cannot find any specific definition of a “container” within Appellant’s specification. At best, Appellant merely gives examples, (e.g. Specification page 3 lines 1-11 “book containers, volume containers, chapter containers, and subsections

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(noncontainers, because they are at the leaf level of the hierarchy”).). Without a specific definition, the examiner adopts the broadest reasonable interpretation within the scope of the relevant art, of “containers”, as directed to encapsulated collections of data.

Although ezWriter does not specifically disclose the word “container”, Bromberg does. Bromberg maps structured content into topics and questions. Bomberg teaches a program called “Acappella Designer”, encompassing a topic hierarchy, and a display for displaying questions, etc. related to each topic (Bromberg Abstract, column 5 lines 27-35, column 16 lines 13-18). The designer uses a process called “rollup” which the premise that each container (parent container) in the hierarchy contains information on the activity of the containers that are subordinate to it (child containers), said containers containing content (i.e. questions, etc.). Please note Bromberg’s explicit disclosure of “containers” (column 18 lines 41-46). Bromberg also teaches a hierarchical table (Bromberg column 18 lines 40-65, see also column 17 lines 27-40, column 19 lines 10-20 and 22-34). Bromberg’s container’s contain encapsulated data (i.e. a topic, etc.). Bromberg teaches containers, each container adhering to inheritance, with the “roll up” feature acting to update the relationships subsequent to changes accordingly. The examiner applies Bromberg to ezWriter, providing ezWriter’s hierarchical display with the added functionality provided by Bromberg.

b.       *“Also, modifying ezWriter to use Bromberg’s parent and child containers in place of the .rtf files disclosed in ezWriter would destroy the principle operation of ezWriter, and hence, would not have been an obvious modification to a person of ordinary skill at the time of the invention.”* (page 15 – at top, of the Brief).

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The examiner respectfully disagrees. The rejection of claim 1 does not state that anything within ezWriter is “replaced” or “used in place of”. Instead, the teaching of Bromberg’s containers (along with its roll up feature) are applied to ezWriter’s hierarchical display to give said display added functionality. Instead of “destroying” the principle operation of ezWriter, the addition of Bromberg’s hierarchical containers and roll up feature give ezWriter added functionality of rearranging content relationships accordingly.

c. *“It is respectfully submitted that ezWriter does not teach or even suggest the use of containers, much less that a parent container can contain a child container, as required by claim 1.”*  
(page 15 – at middle, of the Brief).

The examiner respectfully disagrees. Without a specific definition of a “container” within Appellant’s specification, the examiner adopts said container as directed to encapsulated collections of data. Each .rtf file of ezWriter at least suggests a collection of data, differentiated by a hierarchical tree. Since ezWriter never discloses the word “container”, Bromberg is used to explicitly teach this feature. The assertion of “parent containers containing child containers” is indicative of a typical inherency based hierarchical tree embodiment, which is at least implied within ezWriter’s tree display, and explicitly taught in Bromberg.

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d.        *“The Examiner’s asserted motivation for modifying ezWriter to use the parent/child container of Bromberg is that the rollup feature disclosed in Bromberg could be used to make ‘set wide’ changes throughout the ezWriter set of files. It is respectfully submitted, however, that the prior art neither teaches nor suggests such a motivation.”* (page 15 – at bottom, of the Brief).

The examiner respectfully disagrees. EzWriter is written for any author to create a textual work divided hierarchically (i.e. chapters, etc.). The skilled artisan is cognizant that a typical author writes and rewrites a textual work many times, making chapter additions, deletions, etc. where necessary (as in multiple drafts, etc.). Bromberg’s rollup feature provides ezWriter the benefit of making “set wide” changes to account for adding, deleting and modifying textual sections accordingly, saving the author from relying solely on manual modification of ezWriter’s .ezw tree file to show the new tree relationship.

e.        *“Further, there is no reason why the child containers of Bromberg, which contain questions to be answered by an expert, would be combined with the .rtf files of ezWriter (i.e. “A Parent Entity,” “A Child of the Entity”, and “Another Child of that Entity”).* (page 16 – at middle, of the Brief).

The examiner respectfully disagrees. EzWriter is designed to assist with the organization of outlines, concepts, notes, chapters, etc. (EzWriter page 3 section “What is ezWriter?”). Since EzWriter is an all-purpose utility, there is no reason why EzWriter cannot incorporate Bromberg’s set of questions and answers.

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f.       *"Although ezWriter (page 8) discloses "A Parent Entity," "A Child Entity," and "Another Child of that Entity", this aspect of ezWriter was cited by the Examiner for teaching 'a plurality of hierarchically related content entities of a content object.' There is no teaching or suggestion in the prior art that the hierarchically related content entities of ezWriter should use a parent container and a child container."* (page 17 – at middle, of the Brief).

The examiner respectfully disagrees. As explained above, the examiner defines containers as directed to encapsulated collections of data, which the examiner believes is a fair and reasonable interpretation within the scope of the relevant art. Appellant's specification appears to support this interpretation (Specification page 76 lines 26-29 - "We will now assume that the user wishes to add a custom container (i.e., chapter) to the CBO in Fig. 15A"). Content entities, and containers, both encapsulate collections of data accordingly (EzWriter discloses "chapters" on page 3 top paragraph).

g.       *"In particular, there is no teaching or suggestion in the combination of ezWriter and Bromberg of a 'second list of content entity identifiers.' EzWriter discloses a single list of content identifiers. See for example page 8."* (page 18 – near bottom, of the Brief)

The examiner respectfully disagrees. In additional support of the instant rejections, EzWriter at page 9 discloses a tree comprising a first list ("Introduction", and "..What is RTF (Rich Text Format")", and a second list ("Planned Improvements", and "..How to Request Improvements"). The content entity "..What is RTF (Rich Text Format)" is moved from the first list, to the second list accordingly, as demonstrated on page 10 of the ezWriter reference. It is respectfully submitted that the limitations of

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representative claim 40 does not preclude the examiner from interpreting a first list and a second list accordingly (i.e. claim 40 does not recite each list as separate and independent trees, etc.).

e. *"Consequently, Poole does not satisfy the deficiencies of ezWriter and Bromberg discussed above."* (page 19 – at bottom, of the Brief).

The examiner respectfully disagrees. It is respectfully submitted that since Appellant does not present any specific arguments against the Poole reference, the examiner maintains that the Poole reference fairly teaches/suggests Appellant's claimed limitations where applied accordingly.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

William L. Bashore

  
WILLIAM L. BASHORE  
PRIMARY EXAMINER

1/7/2006

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